

Division 3. Air Resources Board

Chapter 9. Off-Road Vehicles and Engines Pollution Control Devices

Article 6. Portable Fuel Containers and Spouts

§ 2467.4. Innovative Products.

(a) The Executive Officer may exempt a portable fuel container or spout or both portable fuel container and spout from one or more of the requirements of Section 2467.2 if a manufacturer demonstrates by clear and convincing evidence that, due to the product's design, delivery system, or other factors, the use of the product will result in cumulative ROG emissions below the highest emitting representative spill-proof system or representative spill-proof spout in its product category as determined from applicable testing.

(b) For the purposes of this Section, "representative spill-proof system" or a "representative spill-proof spout" means a portable fuel container or spout or both portable fuel container and spout which, at the time of application in (c) of this Section, meets the Performance Standards specified in Section 2467.2.

(c) A manufacturer (applicant) must apply in writing to the Executive Officer for an innovative product exemption claimed under subsection (a). The application must include the supporting documentation that quantifies the emissions from the innovative product, including the actual physical test methods used to generate the data. In addition, the applicant must provide any information necessary to enable the Executive Officer to establish enforceable conditions for granting the exemption. All information including proprietary data submitted by a manufacturer pursuant to this section shall be handled in accordance with the procedures specified in Title 17, California Code of Regulations, Sections 91000-91022.

(d) Within 30 days of receipt of the exemption application the Executive Officer shall determine whether an application is complete as provided in section 60030(a), Title 17, California Code of Regulations.

(e) Within 90 days after an application has been deemed complete, the Executive Officer will determine whether, under what conditions, and to what extent, an exemption from the requirements of Sections 2467.2 will be permitted. The applicant and the Executive Officer may mutually agree to a longer time period for reaching a decision. An applicant may submit additional supporting documentation before a decision has been reached. The Executive Officer will notify the applicant of the decision in writing and specify such terms and conditions that are necessary to ensure that emissions from use of the product will meet the emissions reductions specified in subsection (a), and that such emissions reductions can be enforced.

(f) In granting an innovative product exemption for a portable fuel container or spout or both portable fuel container and spout, the Executive Officer shall specify the test methods for determining conformance to the conditions established. The test methods may include criteria for reproducibility, accuracy, and sampling and laboratory procedures.

(g) For any portable fuel container or spout or both portable fuel container and spout for which an innovative product exemption has been granted pursuant to this section, the manufacturer shall notify the Executive Officer in writing at least 30 days before the manufacturer changes a product's design, delivery system, or other factors that may effect the ROG emissions during recommended usage. The manufacturer must also notify the Executive Officer within 30 days after the manufacturer learns of any information that would alter the emissions estimates submitted to the Executive Officer in support of the exemption application.

(h) If the Performance Standards specified in Section 2467.2 are amended for a product category, all innovative product exemptions granted for products in the product category, except as provided in this subsection (i), have no force and effect as of the effective date of the amended Performance Standards.

(i) If the Executive Officer believes that a portable fuel container or spout or both portable fuel container and spout for which an exemption has been granted no longer meets the criteria for an innovative product specified in subsection (a), the Executive Officer may hold a public hearing in accordance with the procedures specified in Title 17, California Code of Regulations, Subchapter 1.25, to determine if the exemption should be modified or revoked.

NOTE: Authority cited: Sections 39600, 39601, 43013, 43018 and 43101, Health and Safety Code; and *Western Oil and Gas Ass'n. V. Orange County Pollution Control District*, 14 Cal.3d 411, 121 Cal.Rptr. 249 (1975). Reference: Sections 39000, 39001, 39003, 39500, 39515, 39516, 41511, 43000, 43013, 43016, 43017 and 43018, Health and Safety Code; and *Western Oil and Gas Ass'n. V. Orange County Pollution Control District*, 14 Cal.3d 411, 121 Cal.Rptr. 249 (1975).

REFERENCE